There were two distinct charges in respect of the same date and, more or less the same evidence but in respect of two separate and distinct individuals. In his reasons for judgment the learned District Judge states that he ordered the two sentences of six months' rigorous imprisonment to run "concurrently" whereas on the record itself it states that they were consecutive.

It is not usual to order sentences to run consecutively unless there are some good grounds for so doing and I was in some quandary. Taking into consideration the fact that the accused would lose his job and although I thought that he was getting off lightly with six months' rigorous imprisonment I thought it safer to order the sentences to be concurrent.

Appeal dismissed.

Re RUN RUN SHAW AND RUNME SHAW, *Ex parte* REPUBLIC PICTURES INTERNATIONAL CORPORATION.

[Orig. Civ. Juris. (Gordon-Smith, J.) Feb. 28, 1949]

[Singapore — Originating Motion No. 4 of 1949]

Courts Ordinance, s. 8(1) — Rules of the Supreme Court, O. 42. r. 1 — Application for leave to issue writ of attachment for contempt of Court — Alleged obstruction in prevention of civil suit by proceedings in a foreign Court.

In this case an application was made for leave to issue a writ of attachment. It was alleged that the respondents by instituting proceedings in New York asking for inter alia an injunction to restrain the applicants from proceeding with an action in Singapore against the respondents for damages for alleged breach of contract and for an injunction, wherein the applicants had applied also for relief in respect of the alleged breach of contract, had obstructed or attempted to obstruct or threatened the applicants in such suit in Singapore, and that this constituted a contempt of this Court's jurisdiction.

Held, that on the facts there was nothing to debar the respondents from instituting the suit and making the application to the New York Court for an injunction in the exercise of their undoubted legal rights to do so and therefore even though their action might embarrass the applicants, it did not constitute a contempt of Court. Application dismissed with costs.

Cases referred to:—

(1) *Williams v. Lyons* 88 E.R. 138.
(2) *Smith v. Lakeman* (1856), 26 L.J. Ch. 305.
(3) *Bromilow v. Phillips* (1891), 40 W.R. 220, 8 T.L.R. 168.
(4) *In re Mulock* 16A E.R. 1407.
(5) *Smith v. Smith* (1889), 59 L.J.P. 15.
(6) *Webster v. Bakewell Rural District Council* (1916) 1 Ch. 300.
(7) *Bushby v. Munday* 56 E.R. 908.
(8) *Armstrong v. Armstrong* (1892) P. 98.
(9) *Hyman v. Helm* (1883), 24 Ch. D. 531 at p. 537.
(10) *In re Connolly Bros. Ltd.* (1911) 1 Ch. 731 at p. 745.
(11) *Heilman v. Falkenstein* (1917), 33 T.L.R. 385.
(12) *Cohen v. Rothfield* (1919) 1 K.B. 410 at pp. 413/4.
(13) *In re New Gold Coast Exploration Company* (1901) 1 Ch. 860.
(14) *Plating Co. v. Farquharson* (1881), 17 Ch. D. 49.
(15) *Hunt v. Clarke* (1889), 59 L.J.Q.B. 490.
(16) *In re Septimus Parsonage* (1901) 2 Ch. 424.

MOTION.

Dr. C. H. Withers-Payne for the applicants.

K. A. Seth for the respondents.

The facts and arguments appear sufficiently from the judgment.

Cur. Adv. Vult.

Gordon-Smith, J. : — This is a motion by Dr. Withers-Payne, counsel for Republic Pictures International Corporation for the necessary leave under Order 42 rule 1 to issue a writ of attachment against the respondents, Run Run Shaw and Runme Shaw, in respect of alleged contempt of Court by obstructing or attempting to obstruct or threatening by proceedings in a foreign Court the applicants in the prosecution and conduct of Civil Suit 686 of 1948 instituted by them in this Court against the respondents trading as Eastern Film Agency.

It is necessary, therefore, to set out the details of these other proceedings with relevant dates. Throughout this judgment I will refer to the applicants as the plaintiffs and the respondents as the defendants, as in fact they are, in Civil Suit 686 of 1948.

On the 6th November, 1948, the plaintiffs issued a writ of summons against the defendants claiming (1) damages for breach of a contract in writing dated the 22nd January, 1947; (2) an injunction restraining the defendants from exhibiting, distributing etc. films of the plaintiffs; (3) specific performance of clauses 9 and 13 of the said agreement, and other minor reliefs.

On the 13th November, 1948, after various other steps had been taken in the suit, a motion by the plaintiffs was made for an immediate injunction in terms of the claim endorsed on the writ Mr. Seth

appeared for the defendants and on his undertaking that clauses 16 and 18 of the said agreement would be complied with, Dr. Withers-Payne consented to an adjournment of the motion until the 23rd November. Such adjournment was extended until the 30th November when, at the hearing it transpired that cabled information had been received by both parties that a suit had been filed in New York by the defendants against the plaintiffs also asking for an injunction and a further adjournment was agreed to, although Dr. Withers-Payne did mention at this hearing that this New York suit appeared to be merely obstructing and possibly a contempt of this Court. I will now deal with what happened in New York from affidavits made there and filed here subsequently.

On the 22nd November, 1948, and as a result of advice and instructions received and given by a Mr. Benefico the New York agent of the defendants, Messrs. Schwartz & Frohlich a New York firm of Attorneys filed a suit on behalf of the Eastern Film Agency or, in other words, the defendants against the plaintiffs for reformation or rectification of the said agreement of the 22nd January, 1947, and apparently a temporary injunction was also claimed against the plaintiffs in respect of this agreement. The motion for this temporary injunction was fixed for hearing on the 1st December but at the request of the counsel for the plaintiffs (the defendants to the action in New York) and by consent such motion was adjourned until the 5th January, 1949.

Apparently at the hearing of the motion for the injunction the New York Court dismissed the claim unconditionally. I am not aware of any further steps having been taken in the New York suit.

On the 11th January, 1949, the plaintiffs filed the present motion for contempt as detailed above, which motion was argued before me on the 17th instant, after which I reserved judgment.

I might perhaps mention here that the said agreement of the 22nd January, 1947, was entered into in New York, the parties being the plaintiffs, a Company incorporated in the State of Delaware, having its principle office in Now York and the defendants, Run Run Shaw and Runme Shaw doing business under the firm name of Eastern Film Agency at Robinson Road, Singapore, by their agent, Amerigo Benefico.

For the plaintiffs Dr. Withers-Payne argued that any obstruction by a defendant of a plaintiff in the prosecution of a suit was a contempt of Court unless such action by the defendant was in the exercise of a legal right but he agreed that the contempt alleged was a new type of such obstruction and in respect of which no specific authority on the referable facts could be quoted.

He referred to various cases, quoted briefly in Volume 16 of the *English and Empire Digest* page 34, namely §332 *Williams v. Lyons*[1], §335 *Smith v. Lakeman*[2], §347 *Bromilow v. Phillips*[3], §337 *In re Mulock*[4] and §343 *Smith v. Smith*[5], but in none of these cases were the facts comparable with the facts in the present case. In *Webster v. Bakewell Rural District Council*[6] a yearly tenant had claimed an injunction against the defendants for alleged trespass arising out of a dispute between the tenant and the Rural District Council over a boundary wall, whereupon the solicitor for the landlord wrote to the plaintiff in very moderate terms that if the action was not withdrawn the landlord would determine the tenancy and the plaintiff would have no *locus standi* in the action. On a motion to commit the solicitor for contempt of Court it was held that there was no contempt as the solicitor (on instructions from the landlord) was merely proposing or threatening to exercise a legal right.

But, Dr. Withers-Payne argued, in our case a foreign resident comes to our Courts to seek redress against defendants resident here and he is obstructed by the defendants seeking the same relief in the foreigners' own Courts as he could have obtained in our Courts in the plaintiff's suit here, and thereby the plaintiff is obstructed or molested by this action in his own Courts, and such constitutes a contempt of our Courts' jurisdiction.

In *Smith v. Lakeman*[2] an intimidating letter sent by one party to another was held to be a contempt even though such letter had been ineffective. For the defendants Mr. Seth argued that the application was entirely misconceived as to the nature of the relief sought in the New York Courts. Such was for an injunction to restrain the course of the proceedings in Suit 686 of 1948 in our courts and the plaintiffs could equally well have applied to our Courts to restrain the proceedings in New York but instead of doing so, had instituted these proceedings for contempt.

On this question of restraining by injunction other proceedings elsewhere Mr. Seth referred to *Bushby v. Munday*[7], *Armstrong v. Armstrong*[8], *Hyman v. Helm*[9], *In re Connolly Bros. Ltd.*[10], *Heilman v. Falkenstein*[11] and *Cohen v. Rothfield*[12].

All these cases illustrate the care and caution that is exercised before such an injunction is granted. It is quite evident that such care and caution was in fact

exercised by the New York Court in dismissing the application for such injunction. And, I would observe also that the agreement in question had been made and executed in New York, the plaintiffs (defendants and respondents in the New York suit) were resident and carrying on business in New York, and suit and application had been instituted by and on the instructions of the agent of the defendants who himself had executed the agreement in 1947 in New York as agent for the defendants. No doubt also there are witnesses in New York whose evidence will be necessary, apart from that of the plaintiffs themselves. The plain and straightforward point I have to decide is whether this application for an injunction in the New York Courts constitutes a contempt or a real interference with the jurisdiction of our Courts. It is alleged in the motion that this is so because such is an obstruction of or attempt to obstruct or threat to the plaintiffs in the prosecution or conduct of Suit 686 of 1948 in our Courts.

No case or authority has been quoted to me directly in support of such a submission.

I can see nothing which would debar the defendants from instituting such suit and making such application to the New York Court in the exercise of their undoubted legal rights to do so, under the facts and circumstances I have detailed.

I agree that it may embarrass the plaintiffs, but many steps taken in a suit by a party in the alleged exercise of a legal right do embarrass the other side but I have never yet heard it suggested that such steps so taken are a contempt of Court.

There are of course different kinds of contempt and many varying facts and circumstances in which applications for committal for contempt of Court have been made and in some cases granted. But, as I have said, no cases in which the facts and circumstances are comparable with those in this application have been traced or quoted.

I would however refer to the case of *In re New Gold Coast Exploration Company*[13]. In that case the Master of the Rolls quoted with approval remarks made in *Plating Co. v. Farquharson*[14] by a very strong Court of Appeal and adopted remarks made by Cotton, L.J. in *Hunt v. Clarke*[15] which were as follows :—

"Now that I apply and adopt as the principle which ought to regulate these applications — that there should be no such application made unless the thing done is of such a nature as to require the arbitrary and summary interference of the Court in order to enable justice to be duly and properly administered without any interruption or interference, that is what we have to consider and in my opinion although as I say there is here that which is technically a contempt and may be such a contempt as to be of a serious nature, I cannot think that there is any such interference or any such fear of any such interference with the due conduct of this action or any prejudice to the Defendant who is applying here, as to justify the Court in interfering by this summary and arbitrary process."

The Master of the Rolls went on to say :—

"I think every word of that passage applies to the present case. I think that there is no ground whatever for invoking the aid of the Court on the footing of contempt and that the application must be made on that footing in order to succeed."

In that case a liquidator in a voluntary winding-up and against whom a summons for his removal had been taken out, applied for an injunction to restrain the issue of a cricular by a shareholder on the ground that the issue of such circular was a contempt of Court. The application was refused. In *In re Septimus Parsonage*[16] another winding-up case a committal order was made in respect of a circular issued but there, this was a real attempt to interfere with and mislead the Court so as to prevent a compulsory winding-up order.

Applying these principles and I do not wish to be interpreted as thinking or saying that there has even been any technical contempt by the defendants in instituting the New York proceedings, I have no hesitation in dismissing this application, with costs.

Application dismissed.

SINGAPORE HARBOUR BOARD v. THE OWNERS & OTHER PERSONS INTERESTED IN THE VESSEL *GYOSHIN MARU.*

[Orig. Civ. Juris. (Gordon-Smith, J.) March 28, 1949]

[Singapore — Admirality Suit No. 4 of 1948]

Custodian of Property Proclamation — Custodian of Property (Vesting) Ordinance No. 3 of 1947, s. 3 — Action in rem against ship — Ownership of ship — Registration of ship.

This was an application by the Public Trustee to set aside a writ of Summons against the s.s. Gyoshin Maru on the ground that the vessel was vested in His Majesty. It appeared that the ship was captured by the Japanese in or about 1941 in Hong Kong and when Malaya was re-occupied in 1945 the ship was being used here by the Japanese Military Authorities and was surrendered to the British Occupation Forces. It was taken into custody by the Ministry of Transport as agent for and on behalf of His Majesty and as agent for the Custodian of Property on behalf of His Majesty. Subsequently the Custodian chartered the ship to an individual who gave instructions to the Singapore Harbour Board to carry out the necessary repairs and works which were the subject matter of the claim. The vessel was registered at Singapore as being in the ownership of His Majesty represented by the Ministry of Transport in London.

Held, (1) that on the evidence there was nothing to show who was the owner of the ship; (2) that under the Custodian of Property Proclamation, the Public Trustee had the custody of the vessel but there was no